

Time Shares

Real estate developers and resort communities may undertake a business to sell vacation timeshares, an arrangement in which consumers buy vacation homes, usually in a resort area, for a specific length of time each year. The property typically consists of condominiums, apartments, lodges, cabins or hotel rooms or may be a campground where members must provide their own campers or recreational vehicles.

Under state law, timeshares are defined as merchandise and fall within the guidelines of Missouri's Merchandising Practices Act, Chapter 407, Missouri Revised Statutes.

Major provisions of a state law protecting buyers are:

- **A five-day** right of rescision. If a consumer signs a contract to buy a timeshare and then changes his mind, he has five days to cancel. The cancellation must be in writing, and cancellation is effective when the letter is postmarked. According to state law, the seller must give the buyer an **18-point, boldface** printed notice of the right to cancel at the time of purchase.
- **Follow through** on promotional offers. The name of the business entity and all timeshare operations involved in the promotion must be included in promotional literature. This material also must contain the deadline by which all prizes are to be awarded, the odds of winning each prize and the manufacturer's suggested retail price for each prize.
- **Delivery** of promised gifts. When the seller uses free offers or other promotions when soliciting, the seller must deliver any promised gifts or an acceptable substitute gift or cash in an amount equal to the retail value of the gift offered within 10 days of when promised. The seller also must make available to the public a list of names and addresses of all winners. If the seller fails to provide the buyer with a promised gift, the buyer can sue.
- **Explanation** of timeshare exchange plans. Exchange plans usually involve trading a vacation at one timeshare facility for a vacation in another location. Limitations, restrictions or priorities regarding exchange programs must be outlined for the buyer. For example, the timeshare operator must tell a buyer if a Lake of the Ozarks vacation can be exchanged for an Alaska vacation only during December.

Use of any deception, fraud, false pretense, false promise, misrepresentation, unfair practice or concealment of fact by a person in connection with the sale of timeshares is subject to civil and criminal penalties that may be brought by the Attorney General.

For more information on the specific rules and regulations regarding the sale of timeshares within the state of Missouri can be obtained by contacting:

Kimberly Haddix
Registration Specialist/Investigator
Missouri Attorney General's Office
Consumer Protection Division
P.O. Box 899
Jefferson City, MO 65102-0899
Phone: (573) 751-1197 Fax: (573) 751-7948
Email: Kim.Haddix@mail.ago.state.mo.us

Additional information can be found in Chapter 407 of the Revised Missouri Statutes (Section 407.600, Merchandising Practices) online at: <http://www.moga.state.mo.us/statutes/c400-499/4070600.htm>

Legal Structure

Anyone conducting business in the State of Missouri under a name other than his or her own legal name (e.g., John Doe), must register the business name with the Missouri Secretary of State. Missouri law allows businesses to operate under four forms of organization:

- Sole proprietorship
- Partnership – general and limited
- Corporation -- C-Corp; S-Corp; Professional, Not-for-Profit; Foreign
- Limited Liability Company – LLC

Each structure has its own advantages and disadvantages and there are many modifications and variations within these forms. The key to selection revolves around the concept of liability and taxation. You must decide which of these structures best suits your business. In choosing your business structure, consult with a qualified accountant and/or attorney who are familiar with your resources and objectives.

A description of the forms of organization and some of the advantages and disadvantages are discussed in *Starting A New Business In Missouri*. You can download forms on the web at: <http://www.ded.state.mo.us/business/businesscenter/legalformation.shtml> or contact the Secretary of State's Office at (573) 751-3200.

Taxes

Understanding the taxes that apply to your business and how to meet the legal requirements of those taxes is critical. Consultation with an accountant or attorney is advisable.

Tax considerations are essential during the formation of a new business and during its entire life. When a business is just starting out, it may have little or no income or assets and the choice of structure may not seriously affect its tax liability. However, as the business grows, the tax implications become more significant.

Choosing a particular structure does not necessarily determine how the business will be taxed. The table found on page 26 of *Starting A New Business in Missouri* identifies the state and federal forms that must be filed for different business structures and compares the tax liabilities for the most common business structures.

Tax responsibility includes federal, state and local taxes. As a business owner you will be responsible for income taxes, payroll taxes, property tax and other miscellaneous taxes.

Any business making wholesale or retail sales must obtain a Missouri Retail Sales License from the Missouri Department of Revenue. A bond, based on projected monthly gross sales is posted at the time of application. An application form (Form #2643) can be obtained from the Dept. of Revenue on the web at <http://www.dor.state.mo.us/dorforms.htm> or by calling 1-800-877-6881. Generally, a wholesaler or manufacturer will present a Sale/Use Tax Exemption Certificate (Form #149) to the seller showing the sale is exempt from sales tax.

For more information on taxes and access to printable copies of the required forms visit: <http://www.ded.state.mo.us/business/businesscenter/taxes.shtml>

Hiring Employees

Obtain a "Business Tax Kit" and a copy of "Circular E, Employer's Tax Guide" from your local IRS office or call 1-800-829-3676. "Circular E" explains federal tax withholding and Social Security tax requirements for employers as well as containing up-to-date withholding tables for you to use

to determine how much federal income tax and Social Security tax is to be withheld from each employee's paycheck.

What Is Involved?

- Once you begin paying salary or wages to employees, you must collect taxes from your employees. The primary taxes are: federal and state income taxes, Social Security (FICA) and Medicare taxes.
- If you have not already done so, you must apply for a federal employer identification number (EIN) -- Form SS-4. This number is used to identify your business on payroll and income tax returns, as well as for other federal tax purposes. Corporations and partnerships must file Form SS-4 even if they have no employees.
- Have each employee complete an I-9 Employment Eligibility Verification Form and a W-4 form.
- Missouri require that all employers in Missouri report each newly hired employee to the Department of Revenue within 20 calendar days of hire.

For more information on your responsibilities as an employer, please contact our office or your local Workforce Development Career Center (formerly Job Service). To locate the nearest office, check the phone book or call (573) 751-3999 or visit http://www.works.state.mo.us/es_offices/index.htm

For a complete discussion on hiring employees, your responsibilities, and access to the required forms, refer to: <http://www.ded.state.mo.us/business/businesscenter/hiring.shtml>

Resources:

In addition to information on the legal requirements, we think that you will find the following information helpful as you begin your business:

You can download copies of ***Starting a New Business in Missouri*** and ***Doing Business in Missouri***, two excellent publications on the process of starting and operating a business in Missouri, at www.missouridevelopment.org/mbac

Evaluating Your Business Idea www.umsi.edu/~smallbus/Evalbus.pdf

Guide to Writing A Business Plan www.umsi.edu/~smallbus/BusplanG/BusplanG.pdf

The Missouri Business Development Network (MoBDN) is a partnership of the key resource providers in Missouri. The (MoBDN) website contains a vast array of helpful documents, links and information on starting and operating your small business as well as a calendar of upcoming training and educational events throughout Missouri. www.missouribusiness.net

For information on resource providers and business counselors, refer to: http://www.missouribusiness.net/service_centers.asp

For Information on local (city or county) requirements, contact the City Clerk and/or County Clerk. A list of county clerks is found on the Web at www.sos.state.mo.us/elections/countyclerks.asp

Missouri Lawyer Referral Service

Kansas City: (816) 221-9473 (Clay, Jackson, Platte & Ray counties)

St. Louis City & County: (314) 621-6681

Springfield/Greene County: (417) 831-2783

Rest of Missouri: (573) 636-3635

Web at <http://www.mobar.org/pamphlet/referral.htm>

Missouri Society of Accountants 1-800-959-4276

Web at: <http://www.missouri-accountants.com>